JAMES SCOTT COSTELLO
NAME

F-21629
PRISON NUMBER

P.O. BOX 5004
CURRENT ADDRESS OR PLACE OF CONFINEMENT

Calipatria, CA. 92233
CITY, STATE, ZIP CODE

ORIGINAL

2254 ✓ 1983
FILING FEE PAID
Yes No ✓
IFP MOTION FILED
Yes ✓ No
COPIES SENT TO
Court ✓ ProSe

FILED
2008 JUL 11 PM 3: 34
CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY RM DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

JAMES SCOTT COSTELLO,
(FULL NAME OF PETITIONER)

PETITIONER

v.

L. E. SCRIBNER (WARDEN),
(NAME OF WARDEN, SUPERINTENDENT, JAILOR, OR AUTHORIZED PERSON HAVING CUSTODY OF PETITIONER [E.G., DIRECTOR OF THE CALIFORNIA DEPARTMENT OF CORRECTIONS])

RESPONDENT

and

_______________,
The Attorney General of the State of California, Additional Respondent.

Civil No '08 CV 1254 J CAB
(TO BE FILLED IN BY CLERK OF U.S. DISTRICT COURT)

PETITION FOR WRIT OF HABEAS CORPUS
EVIDENTIARY HEARING REQUESTED
UNDER 28 U.S.C. § 2254
BY A PERSON IN STATE CUSTODY

1. Name and location of the court that entered the judgment of conviction under attack: Superior Court Of Orange County

2. Date of judgment of conviction: Sept. 27, 2005

3. Trial court case number of the judgment of conviction being challenged: Sup. Crt. NO. 03WF1003

4. Length of sentence: 55 yrs. to life....

CP

5. Sentence start date and projected release date: Start: 4-5-2006
Projected Release Date: 6-2-2058

6. Offense(s) for which you were convicted or pleaded guilty (all counts):
2ND. Degree Murder (187 subd. (a)) (12022.53 subd. (d))
Prior Conviction (1192.7 subd. (c) (1))

7. What was your plea? (CHECK ONE)
(a) Not guilty ☒
(b) Guilty ☐
(c) Nolo contendere ☐

8. If you pleaded not guilty, what kind of trial did you have? (CHECK ONE)
(a) Jury ☒
(b) Judge only ☐

9. Did you testify at the trial?
☒ Yes ☐ No

DIRECT APPEAL

10. Did you appeal from the judgment of conviction in the **California Court of Appeal**?
☒ Yes ☐ No

11. If you appealed in the **California Court of Appeal**, answer the following:
(a) Result: Denied
(b) Date of result (if known): 8-1-2007
(c) Case number and citation (if known): G036724
(d) Names of Judges participating in case (if known)
(e) Grounds raised on direct appeal: Trial Crt.'s abuse of discretion excluding 3rd. party culpability/ Ineffective Assistance/ Failure to request 3rd. party culpability instructions

12. If you sought further direct review of the decision on appeal by the **California Supreme Court** (e.g., a Petition for Review), please answer the following:
(a) Result: Denied
(b) Date of result (if known): 10-17-2007
(c) Case number and citation (if known): (G036724) (SUP.CRT. S156190)
(d) Grounds raised: Same as the previous....

13. If you filed a petition for certiorari in the **United States Supreme Court**, please answer the following with respect to that petition:

(a) Result: ______________________

(b) Date of result (if known): ______________________

(c) Case number and citation (if known): ______________________

____

(d) Grounds raised: __________ N/A __________

____

____

____

COLLATERAL REVIEW IN STATE COURT

14. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Superior Court**?
☐ Yes ☐ No

15. If your answer to #14 was "Yes," give the following information:

(a) **California Superior Court** Case Number (if known): ______________________

(b) Nature of proceeding: ______________________

____

(c) Grounds raised: __________ N/A __________

____

____

____

(d) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☐ No

(e) Result: __________ N/A __________

(f) Date of result (if known): ______________________

16. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Court of Appeal**?
☐ Yes ☒ No

17. If your answer to #16 was "Yes," give the following information:

(a) **California Court of Appeal** Case Number (if known): ____________

(b) Nature of proceeding: ____________

(c) Names of Judges participating in case (if known) ____________ N/A

(d) Grounds raised: ____________

(e) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☐ No

(f) Result: ____________ N/A

(g) Date of result (if known): ____________

18. Other than a direct appeal from the judgment of conviction and sentence, have you previously filed any petitions, applications, or motions (e.g., a Petition for Writ of Habeas Corpus) with respect to this judgment in the **California Supreme Court**?
☐ Yes ☒ No

19. If your answer to #18 was "Yes," give the following information:

(a) **California Supreme Court** Case Number (if known): ____________

(b) Nature of proceeding: ____________

(c) Grounds raised: ____________ N/A

(d) Did you receive an evidentiary hearing on your petition, application or motion?

☐ Yes ☐ No

(e) Result: ____________ N/A

(f) Date of result (if known): ____________

20. If you did ***not*** file a petition, application or motion (e.g., a Petition for Review or a Petition for Writ of Habeas Corpus) with the **California Supreme Court**, containing the grounds raised in this federal Petition, explain briefly why you did not:

N/A

COLLATERAL REVIEW IN FEDERAL COURT

21. Is this your **first** federal petition for writ of habeas corpus challenging this conviction?
☒ Yes ☐ No (IF "YES" SKIP TO #22)

(a) If no, in what federal court was the prior action filed? ________

(i) What was the prior case number? ________

(ii) Was the prior action (CHECK ONE):

☐ Denied on the merits?

☐ Dismissed for procedural reasons?

(iii) Date of decision: ________

N/A

(b) Were any of the issues in this current petition also raised in the prior federal petition?
☐ Yes ☐ No

(c) If the prior case was denied on the merits, has the Ninth Circuit Court of Appeals given you permission to file this second or successive petition?
☐ Yes ☐ No

CAUTION:

- **Exhaustion of State Court Remedies:** In order to proceed in federal court you must ordinarily first exhaust your state court remedies as to each ground on which you request action by the federal court. This means that even if you have exhausted some grounds by raising them before the California Supreme Court, you must first present ***all*** other grounds to the California Supreme Court before raising them in your federal Petition.

- **Single Petition:** If you fail to set forth all grounds in this Petition challenging a specific judgment, you may be barred from presenting additional grounds challenging the same judgment at a later date.

- **Factual Specificity:** You must state facts, not conclusions, in support of your grounds. For example, if you are claiming incompetence of counsel you must state facts specifically setting forth what your attorney did or failed to do. A rule of thumb to follow is — state who did exactly what to violate your federal constitutional rights at what time or place.

GROUNDS FOR RELIEF

22. **State *concisely* every ground on which you claim that you are being held in violation of the constitution, law or treaties of the United States. Summarize *briefly* the facts supporting each ground.** (e.g. what happened during the state proceedings that you contend resulted in a violation of the constitution, law or treaties of the United States.) If necessary, you may attach pages stating additional grounds and/or facts supporting each ground.

(a) **GROUND ONE**: Were petitioners U.S. Const. Rights violated when the trial-court "abused its discretion" against third party culpability evidence in violation of the 6TH. & 14th. Amendment ?

Supporting FACTS: The Cal. Sup. Crt. discarded the issue on harmless error grounds; when keeping (both) 3rd. partys testimony from being weighed by the jury egregiously hampered the petitioners defense of "total-innocence". The State Courts down played (more then one) 3rd. party witnesses testimony causing their selves to commit an incurable "structural-defect". 2-witnesses willing to testify about three other individuals with very plausible motives (for the murder) is extremely beyond an harmless error. A total defense & not a partial one should have been brought forth to first protect the petitioners Constitutional Rights & to bring very pertinent credibility to petitioners total innocence, instead it robbed him of his due process rights to fair, impartial & equal protection under the laws of the Constitution, at the very heart of the trial; which then allowed the prosecution to use the trial attorneys inadequate decisions to bolster (his own) claims.

5-6-8-14TH. U.S.C.A.

See petition for review: pages 15-28 & 4th. appel. resp. 18-24....

Did you raise GROUND ONE in the California Supreme Court?

☒ Yes ☐ No.

If yes, answer the following:

(1) Nature of proceeding (i.e., petition for review, habeas petition): P.T.Review

(2) Case number or citation: 03WF1003 Trl. Sup.Crt.G036724

(3) Result (attach a copy of the court's opinion or order if available): See copy.

(b) **GROUND TWO**: Were petitioners 6TH. & 14TH. Const. Rights violated (again) when ?

Supporting FACTS: The State Crt's. denied petitioners (ineffective) assistance claim" against trial counsel, on the assumption that the trial attorney made a reasonable tactical decision when he excluded exculpatory evidence... Here the trial attorney fail so far below normal standards he filed for a new trial on the grounds of his own self admittance of ineffectiveness.... The lower courts erroneously denied the motion & the petitioners otherwise plausible defense of total innocence was hindered & became a very crucial "harmful error", due to the petitioner being (forced) to be judged by the jury without a (complete) defense that corroborated with his testimony.

Now petitioner burdened with his lone testimony without (2) 3rd. party testimonys of other suspects deprived him of his 6Th & 14Th. U.S. Constitutional Rights....

5-6-8-14TH. U.S.C.A.

See petition for review: P. 15-28

Did you raise GROUND TWO in the California Supreme Court?

☒ Yes ☐ No.

If yes, answer the following: Same as ground one.... 1-3

(1) Nature of proceeding (i.e., petition for review, habeas petition): ________

(2) Case number or citation: ________

(3) Result (attach a copy of the court's opinion or order if available): ________

(c) **GROUND THREE**: Were petitioners 6TH. & 14TH. U.S. Const. Rights violated for a (third) time when ???

Supporting FACTS: Petitioners trial counsel failed to request for XXXXXXXXXXXX (3rd.-party culpability) jury instructions, after he has already admitted to (IAC) by time "instruction" phase of trial came up & here he misses the mark (again) of being effective at another very crucial pxxx/ moment of the petitioners defense. 4TH. Appellate respondent claims petitioner was not harmed by this decision due to the jury hearing a (brief) mention of 3rd. party individuals (during closing arguments) after the (unnecessary) " instructions" have (already) been given. Therefore this error is beyond harmless & deprived petitioner of his 6TH. & 14TH Amendment Rights (AGAIN); due to the jury hearing about the 3rd. party witnesses at a time the proper instructions have already been excluded; leaving petitioner (again) with an inadequate defense favoring the prosecution (again) whose conviction was now more easily to be reached unchallenged by the "instructions" that were given.

5-6-8-14TH. U.S.C.A.

See 4TH. Appell. respondent: P. 16....

Did you raise GROUND THREE in the California Supreme Court?

XXX Yes ☐ No. SAME AS OTHER GROUNDS: 1-3

If yes, answer the following:

(1) Nature of proceeding (i.e., petition for review, habeas petition): ______

(2) Case number or citation: ______

(3) Result (attach a copy of the court's opinion or order if available): ______

(d) **GROUND FOUR**: CONCLUSION:

Petitioner hopes that this honorable court weighs his grounds by way of (Brecht & Kotteakos) Federal Standards...

Supporting FACTS: Petitioner asserts that all of his grounds meets the applicable prong of:

1. (IAC) is established by way of "trial attorney's" self admittance to being ineffective.
2. The (Proceedings) were affected by the trial courts decision to exclude 3rd. party culpability.
3. (Deliberation & Verdict) were affected by misapplied "jury-instructions.

The probability of retrial absent the (errors) raise a very strong doubt here.

Reed v. Ross, 468 U.S. 1 (1984) Petitioner might not have been convicted of 1st. degree murder absent the errors (or at all)....

Brecht v. Abrahmson, 507 U.S. 619 (1993)

Kotteakos v. United States, 328 U. S. 750 (1946)

5-6-8-14TH. U.S.C.A.

Did you raise GROUND FOUR in the California Supreme Court?

☐ Yes ☐ No.

If yes, answer the following:

(1) Nature of proceeding (i.e., petition for review, habeas petition): N/A

(2) Case number or citation:

(3) Result (attach a copy of the court's opinion or order if available):

23. Do you have any petition or appeal **now pending** in any court, either state or federal, pertaining to the judgment under attack?
☐ Yes ☒ No

24. If your answer to #23 is "Yes," give the following information:
(a) Name of Court: ____________
(b) Case Number: ____________
(c) Date action filed: ____________ N/A
(d) Nature of proceeding: ____________

(e) Name(s) of judges (if known): ____________
(f) Grounds raised: ____________
N/A

(g) Did you receive an evidentiary hearing on your petition, application or motion?
☐ Yes ☐ No
N/A

25. Give the name and address, if known, of each attorney who represented you in the following stages of the judgment attacked herein:
(a) At preliminary hearing: ____________
(b) At arraignment and plea: ____________
(c) At trial: ____________ N/A
(d) At sentencing: ____________
(e) On appeal: ____________
(f) In any post-conviction proceeding: ____________
(g) On appeal from any adverse ruling in a post-conviction proceeding: ____________

26. Were you sentenced on more than one count of an indictment, or on more than one indictment, in the same court and at the same time?
☐ Yes ☒ No

27. Do you have any future sentence to serve after you complete the sentence imposed by the judgment under attack?
☐ Yes ☒ No

(a) If so, give name and location of court that imposed sentence to be served in the future:

____

(b) Give date and length of the future sentence: N/A

____

(c) Have you filed, or do you contemplate filing, any petition attacking the judgment which imposed the sentence to be served in the future?
☐ Yes ☒ No

28. Consent to Magistrate Judge Jurisdiction

In order to insure the just, speedy and inexpensive determination of Section 2254 habeas cases filed in this district, the parties may waive their right to procced before a district judge and consent to magistrate judge jurisdiction. Upon consent of all the parties under 28 U.S.C. § 636(c) to such jurisdiction, the magistrate judge will conduct all proceedings including the entry of final judgment. The parties are free to withhold consent without adverse substantive consequences.

The Court encourages parties to consent to a magistrate judge as it will likely result in an earlier resolution of this matter. If you request that a district judge be designated to decide dispositive matters, a magistrate judge will nevertheless hear and decide all non-dispositive matters and will hear and issue a recommendation to the district judge as to all dispositive matters.

You may consent to have a magistrate judge conduct any and all further proceedings in this case, including the entry of final judgment, by indicating your consent below.

Choose only one of the following:

☐ Plaintiff consents to magistrate judge jurisdiction as set forth above.

OR

☐ Plaintiff requests that a district judge be designated to decide dispositive matters and trial in this case.

29. Date you are mailing (or handing to a correctional officer) this Petition to this court: ________

Wherefore, Petitioner prays that the Court grant Petitioner relief to which he may be entitled in this proceeding.

____
SIGNATURE OF ATTORNEY (IF ANY)

I declare under penalty of perjury that the foregoing is true and correct. Executed on

7-9-08 ______________________________ James Costello ______________________________
(DATE) SIGNATURE OF PETITIONER

(PRAYER FOR RELIEF)

1. Petitioner "PRAYS" that this Honorable-Court grant him relief from his confinement without allowing the state a chance to (correct)...

2. Petitioner "PRAYS" that this CRT. decides his merits that the state determined as "harmless-error" & switch the situation to being in the prejudice/procedural default situation....

3. Petitioner also "PRAYS" that this Honorable-CRT. pinpoint all "civil-liberties" that were violated.......

Respectfully Submitted:

VERIFICATION

STATE OF CALIFORNIA
COUNTY OF IMPERIAL

(C.C.P. SEC.446 & 201.5; 28 U.S.C. SEC. 1746)

I, James Scott Castello DECLARE UNDER PENALTY OF PERJURY THAT: I AM THE Petitioner IN THE ABOVE ENTITLED ACTION; I HAVE READ THE FOREGOING DOCUMENTS AND KNOW THE CONTENTS THEREOF AND THE SAME IS TRUE OF MY OWN KNOWLEDGE, EXCEPT AS TO MATTERS STATED THEREIN UPON INFORMATION, AND BELIEF, AND AS TO THOSE MATTERS, I BELIEVE THEM TO BE TRUE.

EXECUTED THIS 9th DAY OF: July 2008 AT CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA #92233-5002

(SIGNATURE) James Castello
(DECLARANTIPRISONER)

PROOF OF SERVICE BY MAIL

(C.C.P. SEC.1013 (a) & 2015.5; 28 U.S.C. SEC.1746)

I, STANFORD CHATFIELD AM A RESIDENT OF CALIPATRIA STATE PRISON, IN THE COUNTY OF IMPERIAL, STATE OF CALIFORNIA. I AM OVER THE AGE OF EIGHTEEN (18) YEARS OF AGE AND AM NOT A PARTY OF THE ABOVE-ENTITLED ACTION. MY STATE PRISON ADDRESS IS: P.O. BOX 5002. CALIPATRIA, CALIFORNIA #92233-5002.

ON July 9, 2008 I SERVED THE FOREGOING: Federal Writ Of Habeas Corpus, to the Cal. S. Dist. & S. Dist. Attorney General, of San Diego, CA.

(SET FORTH EXACT TITLE OF DOCUMENTS SERVED)

ON THE PARTY (S) HEREIN BY PLACING A TRUE COPY (S) THEREOF, ENCLOSED IN A SEALED ENVELOPE (S), WITH POSTAGE THEREON FULLY PAID, IN THE UNITED STATES MAIL, IN A DEPOSIT BOX SO PROVIDED AT CALIPATRIA STATE PRISON, CALIPATRIA, CALIFORNIA #92233-5002.

Clerk, U.S.D.C, Southern Dist.
Of Calif. Room 4290
United States CourtHouse
940 Front Street
San Diego, CA. 92101

Office Of Attorney General
110 West "A" Street Suite 1100
San Diego, CA. 92101-5266

THERE IS DELIVERY SERVICE BY UNITED STATES MAIL AT THE PLACE SO ADDRESSED, AND THERE IS REGULAR COMMUNICATION BY MAIL BETWEEN THE PLACE OF MAILING AND THE PLACE SO ADDRESSED. I DECLARE UNDER PENALTY OF PERJURY THAT THE FOREGOING IS TRUE AND CORRECT.

DATE: 7-9-08

James Castello
(DECLARANTIPRISONER)
Stanford B. Chatfield

JS44
(Rev. 07/89)

CIVIL COVER SHEET

The JS-44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE SECOND PAGE OF THIS FORM.)

FILED
2008 JUL 11 PM 3:34
CLERK US DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
BY: DEPUTY

2254 1983
FILING FEE PAID Yes No
IFP MOTION FILED Yes No
COPIES SENT TO Court Pro Se

I (a) PLAINTIFFS

James Scott Costello

DEFENDANTS

L. E. Scribner

(b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF **Imperial**
(EXCEPT IN U.S. PLAINTIFF CASES)

COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED

(c) ATTORNEYS (FIRM NAME, ADDRESS, AND TELEPHONE NUMBER)

James Scott Costello
PO Box 5004
Calipatria, CA 92233
F-21629

ATTORNEYS (IF KNOWN)

'08 CV 1254 J CAB

II. BASIS OF JURISDICTION (PLACE AN x IN ONE BOX ONLY)

☐ 1 U.S. Government Plaintiff
☒ 3 Federal Question (U.S. Government Not a Party)
☐ 2 U.S. Government Defendant
☐ 4 Diversity (Indicate Citizenship of Parties in Item III

III. CITIZENSHIP OF PRINCIPAL PARTIES (PLACE AN X IN ONE BOX (For Diversity Cases Only) FOR PLAINTIFF AND ONE BOX FOR DEFENDANT

	PT	DEF		PT	DEF
Citizen of This State	☐1	☐1	Incorporated or Principal Place of Business in This State	☐4	☐4
Citizen of Another State	☐2	☐2	Incorporated and Principal Place of Business in Another State	☐5	☐5
Citizen or Subject of a Foreign Country	☐3	☐3	Foreign Nation	☐6	☐6

IV. CAUSE OF ACTION (CITE THE US CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE. DO NOT CITE JURISDICTIONAL STATUTES UNLESS DIVERSITY).

28 U.S.C. 2254

V. NATURE OF SUIT (PLACE AN X IN ONE BOX ONLY)

CONTRACT
☐ 110 Insurance
☐ Marine
☐ Miller Act
☐ Negotiable Instrument
☐ 150 Recovery of Overpayment &Enforcement of Judgment
☐ 151 Medicare Act
☐ 152 Recovery of Defaulted Student Loans (Excl. Veterans)
☐ 153Recovery of Overpayment of Veterans Benefits
☐ 160 Stockholders Suits
☐ Other Contract
☐ 195 Contract Product Liability

REAL PROPERTY
☐ 210 Land Condemnation
☐ 220 Foreclosure
☐ 230 Rent Lease & Ejectmant
☐ 240 Tort to Land
☐ 245 Tort Product Liability
☐ 290 All Other Real Property

TORTS

PERSONAL INJURY
☐ 310 Airplane
☐ 315 Airplane Product Liability
☐ 320 Assault, Libel & Slander
☐ 330 Federal Employers' Liability
☐ 340 Marine
☐ 345 Marine Product Liability
☐ 350 Motor Vehicle
☐ 355 Motor Vehicle Product Liability
☐ 360 Other Personal Injury

PERSONAL INJURY
☐ 362 Personal Injury- Medical Malpractice
☐ 365 Personal Injury - Product Liability
☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
☐ 370 Other Fraud
☐ 371 Truth in Lending
☐ 380 Other Personal Property Damage
☐ 385 Property Damage Product Liability

CIVIL RIGHTS
☐ 441 Voting
☐ 442 Employment
☐ 443 Housing/Accommodations
☐ 444 Welfare
☐ 440 Other Civil Rights

PRISONER PETITIONS
☐ 510 Motions to Vacate Sentence Habeas Corpus
☒ 530 General
☐ 535 Death Penalty
☐ 540 Mandamus & Other
☐ 550 Civil Rights

FORFEITURE/PENALTY
☐ 610 Agriculture
☐ 620 Other Food & Drug
☐ 625 Drug Related Seizure of Property 21 USC881
☐ 630 Liquor Laws
☐ 640 RR & Truck
☐ 650 Airline Regs
☐ 660 Occupational Safety/Health
☐ 690 Other

LABOR
☐ 710Fair Labor Standards Act
720 Labor/Mgmt. Relations
☐ 730 Labor/Mgmt. Reporting & Disclosure Act
☐ 740 Railway Labor Act
☐ 790 Other Labor Litigation
☐ 791 Empl. Ret. Inc.
☐ Security Act

BANKRUPTCY
☐ 422 Appeal 28 USC 158
☐ 423 Withdrawal 28 USC 157

PROPERTY RIGHTS
☐ 820 Copyrights
☐ 830 Patent
☐ 840 Trademark

SOCIAL SECURITY
☐ 861 HIA (13958)
☐ 862 Black Lung (923)
☐ 863 DIWC/DIWW (405(g))
☐ 864 SSID Title XVI
☐ 865 RSI (405(g))

FEDERAL TAX SUITS
☐ 870 Taxes (U.S. Plaintiff or Defendant)
☐ 871 IRS - Third Party 26 USC 7609

OTHER STATUTES
☐ 400 State Reappointment
☐ 410 Antitrust
☐ 430 Banks and Banking
☐ 450 Commerce/ICC Rates/etc.
☐ 460 Deportation
☐ 470 Racketeer Influenced and Corrupt Organizations
☐ 810 Selective Service
☐ 850 Securities/Commodities Exchange
☐ 875 Customer Challenge 12 USC
☐ 891 Agricultural Acts
☐ 892 Economic Stabilization Act
☐ 893 Environmental Matters
☐ 894 Energy Allocation Act
☐ 895 Freedom of Information Act
☐ 900 Appeal of Fee Determination Under Equal Access to Justice
☐ 950 Constitutionality of State
☐ 890 Other Statutory Actions

VI. ORIGIN (PLACE AN X IN ONE BOX ONLY)

☒ 1 Original Proceeding ☐ 2 Removal from State Court ☐ 3 Remanded from Appelate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER f.r.c.p. 23 DEMAND $ Check YES only if demanded in complaint: JURY DEMAND: ☐ YES ☐ NO

VIII. RELATED CASE(S) IF ANY (See Instructions): JUDGE Docket Number

DATE 7/11/08 ~~SIGNATURE OF ATTORNEY OF RECORD~~

CR